

AMENDED IN SENATE JULY 2, 2014  
AMENDED IN SENATE JUNE 17, 2014  
AMENDED IN SENATE JUNE 9, 2014  
AMENDED IN SENATE FEBRUARY 20, 2014  
AMENDED IN ASSEMBLY MAY 29, 2013  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 155**

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**Introduced by Assembly Member Alejo**  
**(Coauthor: Assembly Member Stone)**  
(Coauthors: Senators Cannella and Monning)

January 22, 2013

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An act to add Section 11.1 to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), relating to water, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 155, as amended, Alejo. Monterey County Water Resources Agency: design-build.

(1) Existing law, the Monterey County Water Resources Agency Act, establishes the Monterey County Water Resources Agency as a flood control and water agency within the County of Monterey.

This bill would authorize the agency to award a design-build contract for the combined design and construction of a project to connect Lake San Antonio, located in the County of Monterey, and Lake Nacimiento, located in the County of San Luis Obispo, with an underground tunnel or pipeline for the purpose of maximizing water storage, supply, and

groundwater recharge. *Certain alternative provisions of the bill that would authorize the agency to use a different design-build procedure, as specified, would become operative only if SB 785 is enacted and takes effect on or before January 1, 2015, in which case the other authority to award a design-build contract described above would no longer be operative.*

(2) The bill would declare that, due to the unique circumstances of the agency, a general statute within the meaning of specified provisions of the California Constitution cannot be made applicable and a special statute is necessary.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) The Legislature finds and declares all of the  
2 following:

3 (1) The Salinas Valley contains some of the most fertile land  
4 in, and is a leading provider of produce to, the world, and due to  
5 the economic impact of its production it contributes to the general  
6 economic well-being of the state.

7 (2) As of 2014, the state, including the County of Monterey,  
8 has experienced extraordinary drought conditions, which threaten,  
9 in part, the economic viability and agricultural production of the  
10 valley.

11 (3) In light of these extraordinary drought conditions, the  
12 Governor, on January 17, 2014, declared a state of emergency.

13 (4) The Monterey County Water Resources Agency (hereafter  
14 the agency), established pursuant to Chapter 1159 of the Statutes  
15 of 1990, owns and controls two reservoirs: Lake San Antonio,  
16 located in the County of Monterey, and Lake Nacimiento, located  
17 in the County of San Luis Obispo.

18 (5) These lakes provide water storage for, and flood control  
19 protection to, the Salinas River Groundwater Basin downstream  
20 of the lakes, and also improves water supply and groundwater  
21 recharge in the basin, which contribute to the economic viability  
22 and agricultural production of the valley.

1 (6) The agency has previously undertaken projects to improve  
2 water storage and groundwater recharge within the basin, including  
3 the Salinas Valley Water Project, which, in part, implemented  
4 modifications to the spillway in the dam at Lake Nacimiento, and  
5 in the operation of the dams and spillways at the lakes.

6 (7) Despite these projects, the current drought conditions will  
7 have long-term significant impacts on the agricultural production  
8 in the valley, and additional appropriate projects are necessary to  
9 ensure the continued economic viability and agricultural production  
10 in the valley, especially in light of future conditions as may be  
11 affected by global climate change.

12 (8) The watershed of Lake Nacimiento generally experiences  
13 more runoff from storms and thus provides more water for storage  
14 than does the watershed of Lake San Antonio and, as a result, water  
15 otherwise available for storage at Lake Nacimiento is lost due to  
16 volumes exceeding its storage capacity.

17 (9) The agency has proposed a project to connect Lake  
18 Nacimiento and Lake San Antonio by an underground tunnel or  
19 pipeline that would be constructed within a right-of-way or other  
20 easement acquired by the agency for that purpose.

21 (10) The project will maximize overall water storage at the lakes  
22 by allowing the conveyance of water to Lake San Antonio for  
23 storage that may otherwise overflow from Lake Nacimiento, thus  
24 improving the benefits provided by the lakes and the Salinas Valley  
25 Water Project to the basin and the valley, mitigating the impact of  
26 the drought, and improving the economic viability of the valley  
27 and its agricultural production, all benefitting the state.

28 (11) Utilizing an alternative project delivery system, consisting  
29 of a design-build contract, will provide benefits by shifting the  
30 liability and risk for cost containment and project completion to  
31 the design-build entity, and will provide for the more timely and  
32 efficient project delivery in light of the current drought conditions  
33 and the Governor's emergency declaration.

34 (12) The agency has requested the authority to utilize the  
35 alternative project delivery system in conjunction with a project  
36 labor agreement that meets the requirements of Chapter 2.8  
37 (commencing with Section 2500) of Part 1 of Division 2 of the  
38 Public Contract Code so as to complete the project in a more timely  
39 and efficient manner without any disruptions.

(b) It is the intent of the Legislature that the design-build process set forth in Section 2 *or* 2.5 of this act may be used by the agency solely for the purpose of the project, and not for other purposes.

SEC. 2. Section 11.1 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

11.1. (a) The following definitions apply to this section:

(1) ~~“Design-build” means a procurement process in which both the design and construction of a project are procured from a single entity.~~

(2) ~~“Design-build entity” means a partnership, corporation, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed pursuant to a design-build contract.~~

(3)

(1) “Lakes” means, collectively, Lake San Antonio, located in the County of Monterey, and Lake Nacimiento, located in the County of San Luis Obispo, both owned and operated by the Monterey County Water Resources Agency.

(4)

(2) “Project” means a project to connect the lakes with an underground tunnel or pipeline for the purpose of maximizing water storage, supply, and groundwater recharge at the lakes, and within the Salinas River Groundwater Basin and the Salinas Valley, including all necessary subsurface and surface improvements.

(5)

(3) “Project labor agreement” means an agreement that meets the requirements of Chapter 2.8 (commencing with Section 2500) of Part 1 of Division 2 of the Public Contract Code.

~~(b) (1) Notwithstanding any other law, the agency may award a design-build contract for the combined design and construction of the project.~~

~~(2) If the agency does award a design-build contract as authorized under paragraph (1), it shall do the following:~~

~~(A) Establish a procedure for the selection of the design-build entity for the project.~~

~~(B) Award the contract based upon a written proposal that is determined to be the most advantageous to the agency.~~

~~(C) Ensure~~

1     ***(b) Notwithstanding any other law, upon approval by the board***  
2     ***of directors of the Monterey County Water Resources Agency, the***  
3     ***agency may use the design-build procedure described in Section***  
4     ***20133 of the Public Contract Code to assign contracts for the***  
5     ***design and construction of the project.***

6     ***(c) For purposes of this section, any reference to “county” in***  
7     ***Section 20133 of the Public Contract Code shall mean the***  
8     ***Monterey County Water Resources Agency and its board.***

9     ***(d) The agency shall ensure that the design-build entity selected***  
10    ***for the project enters into a project labor agreement that will bind***  
11    ***all of the contractors performing work on the project.***

12    ~~***(e)***~~  
13    ***(e) The agency may utilize a design-build-contract process solely***  
14    ***to award contracts for the project and for no other purpose.***

15    ***SEC. 2.5. Section 11.1 is added to the Monterey County Water***  
16    ***Resources Agency Act (Chapter 1159 of the Statutes of 1990), to***  
17    ***read:***

18    ***11.1. (a) The following definitions apply to this section:***

19    ***(1) “Lakes” means, collectively, Lake San Antonio, located in***  
20    ***the County of Monterey, and Lake Nacimiento, located in the***  
21    ***County of San Luis Obispo, both owned and operated by the***  
22    ***Monterey County Water Resources Agency.***

23    ***(2) “Project” means a project to connect the lakes with an***  
24    ***underground tunnel or pipeline for the purpose of maximizing***  
25    ***water storage, supply, and groundwater recharge at the lakes, and***  
26    ***within the Salinas Valley River Groundwater Basin and the Salinas***  
27    ***Valley proper, including all necessary subsurface and surface***  
28    ***improvements.***

29    ***(3) “Project labor agreement” means an agreement that meets***  
30    ***the requirements of Chapter 2.8 (commencing with Section 2500)***  
31    ***of Part 1 of Division 2 of the Public Contract Code.***

32    ***(b) Notwithstanding any other law, upon approval by the board,***  
33    ***the agency may use the design-build procedure described in***  
34    ***Chapter 4 (commencing with Section 22160) of Part 3 of Division***  
35    ***2 of the Public Contract Code to assign contracts for the design***  
36    ***and construction of the project.***

37    ***(c) For purposes of this section, all references in Chapter 4***  
38    ***(commencing with Section 22160) of Part 3 of Division 2 of the***  
39    ***Public Contract Code to “local agency” shall mean the Monterey***  
40    ***County Water Resources Agency and its board.***

1     (d) *The agency shall ensure that the design-build entity selected*  
2     *for the project enters into a project labor agreement that will bind*  
3     *all of the contractors performing work on the project.*

4     (e) *The agency may utilize a design-build process solely to*  
5     *award contracts for the project and for no other purpose.*

6     SEC. 3. The Legislature finds and declares that a special law  
7     is necessary and that a general law cannot be made applicable  
8     within the meaning of Section 16 of Article IV of the California  
9     Constitution because of the unique circumstances of the Monterey  
10    County Water Resources Agency.

11    SEC. 4. *Section 2.5 of this act shall become operative on the*  
12    *date that Senate Bill 785 takes effect if Senate Bill 785 is also*  
13    *enacted and takes effect on or before January 1, 2015, in which*  
14    *case Section 2 of this act shall become inoperative on the date that*  
15    *Senate Bill 785 takes effect.*

16    ~~SEC. 4.~~

17    SEC. 5. This act is an urgency statute necessary for the  
18    immediate preservation of the public peace, health, or safety within  
19    the meaning of Article IV of the Constitution and shall go into  
20    immediate effect. The facts constituting the necessity are:

21    In order to mitigate the conditions within the County of Monterey  
22    caused by the current drought and as set forth by the Governor in  
23    the related emergency declaration, it is necessary that this act take  
24    effect immediately.